

Town of Mashpee

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Zoning Board of Appeals Minutes 08/27/2014

MASHPEE ZONING BOARD OF APPEALS AUGUST 27, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, August 27, 2014, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members Jonathan D. Furbush, William A. Blaisdell, James Reiffarth, Richard Jodka, Associate Members Domingo K. DeBarros and Scott Goldstein were present. Building Commissioner Michael Mendoza was also present. Board Member, Ronald Bonvie was absent.

Jonathan Furbush, Chairman opened the meeting at 6:00 p.m. and announced the meeting was being televised live on local Mashpee television.

PLEDGE OF ALLEGIANCE

NEW HEARINGS

Michael Moskowitz: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a 528 sq. ft. addition and living space above garage on property located in an R-3 Zoning District at 146 Popponesset Island Road, (Map 112 Parcel 10), Mashpee, MA.

Michael Moskowitz: Request a Variance under §174-31 (Land Space Requirements) of the Zoning By-laws and M.G. L. Chapter 40A §10 for relief from the front yard and lot coverage requirements to allow for construction of a 528 sq. ft. addition and living space above garage on property located in an R-3 Zoning District at 146 Popponesset Island Road, (Map 112 Parcel 10), Mashpee, MA.

Attorney, Kevin Kirrane represented the petition for Mr. Moskowitz regarding a specific finding and variance relief at 146 Popponesset Island Road. He provided the Board with a narrative, photos, and a plot plan that highlights the existing structure. The additional living space above the garage is not increasing the footprint of the building, and is 528 square feet. The property has 125 feet of frontage on Popponesset Island Road and the lot is about 17,300 square feet, abutting Popponesset Bay. The structure fails to conform to the side line setback criteria at 10 feet, and fails to conform to the 50 foot setback criteria of the wetland, and 21 feet from the seawall. The existing house occupies about 16.67% of the lot, at 17.14% if you include the dock on the outland section of the property. The building is currently setback at 43.7 feet from Popponesset Island Road, and 25 feet from the southerly sideline. The applicant is proposing a modest addition on the southerly side of the building and adding living space above the garage. The new residence will occupy 19.72% of the site. The lot coverage rises to 20.19% if including the dock complex.

The property is in an R-3 Zoning District which requires a minimum of 40,000 square feet and 150 feet of frontage. The setback criteria requires a minimum of 15 feet on the sides and rear, 40 feet on the front, and 50 feet from the wetland resource areas. The proposed addition will be situated 16.1 feet from the southerly property line which is conforming. The addition will become non-conforming at 32.7 feet from Popponesset Island Road, and the minimum is 40 feet.

There is also an application for variance relief due to the proximity of the dwelling to the street. There is a slight increase over the 20% lot coverage requirement. The interpretation has always been that increasing anything on a non-conforming structure would require applying for finding, but questions arise whether to include variance relief to future applications if creating a new non-conformity.

Mr. Furbush asked about the garage addition. Mr. Kirrane stated there will be additional living space, and requesting a 528 square feet addition on the other side of the building. Jonathan asked about the two proposed egress stairs, one in front close to street and the proposed egress stairs. Michael Moskowitz, the homeowner, approached the Board and explained the proposed egress stairs will be off the deck, and the new egress stairs in the front are for the first floor addition.

Jonathan read the Board of Health letter into the record, dated August 26, 2014, addressed to Thomas Bunker, BSS Design. "On August 7, 2014, the Mashpee Board of Health approved the variance relief with the condition; a septic inspection shall be performed and submitted to the Board of Health prior to issuance of the Building Permit."

Jonathan read the Building Commissioner's comments into the record; "146 Popponesset Island Rd- Requesting a Variance. Proposed bulk head is short 3 feet of the required 15 foot side setback from the south property line".

Jonathan read Stephen Mone, Harbormaster comments into the record; "The Harbormaster requires that the dock/floats including 10A floats must be updated to black hard plastic encapsulated block flotation and all the foam/Styrofoam be removed and disposed of properly. This will help eliminate the issue of storm bourn debris on our bays, lakes and rivers. Also that the street address must be permanently and clearly displayed with minimum of 3" block letters with contrasting color at end of pier/piling for emergency purposes, and in addition to the owners address be permanently affixed on all floats and ramps with 3" block letters with contrasting color. Otherwise, The Harbormaster has no issue with this plan."

Bill Blaisdell read Conservation Comments into the record, dated August 7, 2014 from Andrew McManus; "No application submitted to Conservation Dept. Any increase in living space may require modifications to existing septic system. Construction impacts of addition may also trigger a permit requirement. (Please note: This application was approved on August 14, 2014, per Andrew McManus).

Mr. Kirrane commented that there is a Zoning Bylaw footnote that allow bulkheads to encroach into side yard setback requirements.

Mr. Mendoza asked what the addition will be used for on the Southerly side. Mr. Kirrane said to enclose the porch for a living area, bedroom, and exercise room above.

Mr. Moskowitz said there is currently five (5) bedrooms and he is proposing to keep five (5) eliminating two bedrooms in the basement. The plan is for one bedroom on the first floor, two above the garage, one existing on the second floor, and one bedroom on the second floor of the 528 square foot addition.

Mr. Jodka asked Mr. Kirrane what the reason was for asking more than the required 20%.

Mr. Kirrane said there is no hardship, put presented the Board with a revised plot plan that reduces the size of the deck.

Mr. Blaisdell made a motion to approve the request for a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a 528 sq. ft. addition and living space above garage on property located in an R-3 Zoning District at 146 Popponesset Island Road, (Map 112 Parcel 10), Mashpee, MA. Referencing a plot plan prepared by BSS Design Engineering & Surveying, Scale = 1" = 20', dated July 8, 2014, drawn EJP, TJB, job number 14008, Drawing number B22-19, for Michael Moskowitz, 146 Popponesset Island Road, Mashpee, MA. Also making the motion, the Board finds that the dwelling is not substantially more detrimental than the existing non-conforming structure. The new dwelling will be an improvement and conform to current building code requirements, is compatible in size and character to other structures in the neighborhood and there is sufficient parking and setbacks as may be required.

Mr. Furbush, seconded, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Mr. Blaisdell made a motion to approve Mr. Moskowitz' request for a Variance under §174-31 (Land Space Requirements) of the Zoning By-laws and M.G. L. Chapter 40A §10 for relief from the front yard requirements to allow for construction of a 528 sq. ft. addition and living space above garage on property located in an R-3 Zoning District at 146 Popponesset Island Road, (Map 112 Parcel 10), Mashpee, MA. The Board issues a 7.3 foot front setback variance from Popponesset Island Road, which is 32.7 feet from the 40 foot requirement, and a 5 foot variance on the North side. Referencing a plot plan prepared by BSS Design Engineering & Surveying, Scale = 1" = 20', dated July 8, 2014, drawn EJP, TJB, job number 14008, Drawing number B22-19, for Michael Moskowitz, 146 Popponesset Island Road, Mashpee, MA.

Mr. Furbush, seconded, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Leslie A. Wagner Caffyn: Request a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a 822 sq. ft. addition on property located in an R-3 Zoning District at 10 Popponesset Island Road, (Map 105 Parcel 267A), Mashpee, MA.

Leslie A. Wagner Caffyn: Request a Variance under §174-31 (Land Space Requirements) of the Zoning By-laws and M.G. L. Chapter 40A §10 for relief from the front yard setback requirements of a residential structure on property located in an R-3 Zoning District at 10 Popponesset Island Road, (Map 105 Parcel 267A), Mashpee, MA.

Attorney, Kevin Kirrane representing Leslie Caffyn in connection with the application before the Board for a specific finding, and if necessary, a front yard variance. He provided the Board with pictures, and appended a copy of the land court plan with the written remarks that shows the lot to give the Board an idea of the lot and how it is impacted by its shape and wetland resource areas.

The parcel of land is uniquely shaped on a peninsula, and there is no frontage. The lot is accessed over a 15 foot wide way to Popponesset Island Road and containing 53,600 square feet which makes it conforming by a size perspective, but does not have any frontage. This is an access easement created without frontage several years ago. The side yard was improved with a three bedroom home built in the 1950's. There is also an accessory pier, dock, and float complex on the westerly side of the lot. It is a single-family, residential, non-conforming structure and fails to meet the 50 foot setback requirement being 19.6' from the wetland resource area.

The proposed project includes a small addition to the existing structure on the southeasterly and westerly sides, a small breezeway, and a one car garage. The garage as proposed will sit 15.3 feet from the private way and lot line. If the Board considers that a side yard, then the structure conforms, and there is no need for a front yard setback criteria. If the private way is frontage, there will be no issue because there is no structure. There's no other issues regarding lot coverage or other involved setbacks.

A substantial interior renovation is also being proposed as well as a face lift of the structure. There will be some dormers added on the second floor and converted to living space. There is a considerable upgrade of what currently exists and not getting any closer to any wetland resource areas. The project was viewed and approved by Conservation.

Mr. Mendoza stated as noted by Mr. Kirrane, he views the private way as frontage on vacant land, and could not issue a permit, but does not have a problem whatever the Board decides.

Jonathan read the comments from Board of Health into the record; "Septic plan to change tanks to H-20 loading due to driveway alignment was approved on July 21, 2014."

Jonathan read the comments from Building Commissioner into the record; "Proposed garage is not 40 feet from the road (is short 25 feet) and is within the V17 Flood Zone".

Mr. Mendoza stated the V zone at elevation 16 and is a building code issue.

Mr. Furbush stated that if the value of the structure renovation is 40% more than it has to be raised.

Jonathan read Stephen Mone, Harbormaster comments into the record; "The Harbormaster requires that the dock/floats including 10A floats must be updated to black hard plastic encapsulated block flotation and all the foam/Styrofoam be removed and disposed of properly. This will help eliminate the issue of storm bourn debris on our bays, lakes and rivers. Also that the street address must be permanently and clearly displayed with minimum of 3" block letters with contrasting color at end of pier/piling for emergency purposes, and in addition to the owners address be permanently affixed on all floats and ramps with 3" block letters with contrasting color. Otherwise, The Harbormaster has no issue with this plan."

Mr. Blaisdell made a motion to approve Leslie Caffyn's request for a Written Finding under Article V §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to allow for construction of a 822 sq. ft. addition on property located in an R-3 Zoning District at 10 Popponesset Island Road, (Map 105 Parcel 267A), Mashpee, MA. Referencing a plot plan provided by Cape & Island Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA, dated 7/15/14, revised on 7/24/14, and 8/25/14 (Added Note Re: 8' x 15' addition).

Also making the motion, the Board finds that the dwelling is not substantially more detrimental than the existing non-conforming structure. The new dwelling will be an improvement and conform to current building code requirements, is compatible in size and character to other structures in the neighborhood and there is sufficient parking and setbacks as may be required.

Mr. Blaisdell made a motion to approve Leslie Caffyn's request for a Variance under §174-31 (Land Space Requirements) of the Zoning By-laws and M.G. L. Chapter 40A §10 for relief from the front yard setback requirements of a residential structure on property located in an R-3 Zoning District at 10 Popponesset Island Road, (Map 105 Parcel 267A), Mashpee, MA. Referencing a plot plan provided by Cape & Island Engineering, 800 Falmouth Road, Suite 301C, Mashpee, MA, dated 7/15/14, revised on 7/24/14, and 8/25/14 (Added Note Re: 8' x 15' addition). The Board issues a front setback of 24.7 foot variance considering the front on the Southerly side of the easement to access the private way.

Mr. Furbush, seconded, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Paul C. Trane: Request a Written Finding under §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to raze and replace a single-family dwelling located on

property in an R-3 Zoning District at 124 Summersea Road, (Map 105 Parcel 53) Mashpee, MA.

Attorney, Kevin Kirrane represents Paul Trane requesting to raze and replace the existing single-family residential structure. The property consists of 9,000 square foot, non-conforming, three (3) bedroom home that was built in the 1960's and is in need of an upgrade. The Northerly setback is 13.1 feet, the Southerly setback is 13.5 feet and its front yard setback is 22.7 feet and is only 14 feet from the wetland resource area.

The proposed structure will have a footprint of 1,921 square feet at 21.3% lot coverage and a slight reduction of 21.6% from the existing lot coverage. The building will be situated back 18.0 feet from Summersea Road, 13.2 feet and 14.3 feet from its Northerly and Southerly sidelines and is improving the 18 feet from the wetlands.

Jonathan read the Board of Health comments into the record; "Septic, site and architectural plans reviewed. Septic variances were approved on July 17, 2014 with the condition that the den/study be constructed with a six-foot opening and the outdoor shower be connected to the septic system. Septic constructed for three bedrooms."

Jonathan read the comments from the Building Commissioner into the record; "Looking to replace structure with a new one."

Jonathan read Stephen Mone, Harbormaster comments into the record; "The Harbormaster requires that the dock/floats including 10A floats must be updated to black hard plastic encapsulated block flotation and all the foam/Styrofoam be removed and disposed of properly. This will help eliminate the issue of storm bourn debris on our bays, lakes and rivers. Also that the street address must be permanently and clearly displayed with minimum of 3" block letters with contrasting color at end of pier/piling for emergency purposes, and in addition to the owners address be permanently affixed on all floats and ramps with 3" block letters with contrasting color. Otherwise, The Harbormaster has no issue with this plan."

Mr. Kirrane stated that Conservation approved the project at their August 14th hearing.

Mr. Blaisdell made a motion to approve Mr. Paul Trane's request for a Written Finding under §174-17 of the Zoning By-laws and M.G.L. Chapter 40A §6 concerning continuance, extension or alteration of a pre-existing, non-conforming structure to raze and replace a single-family dwelling located on property in an R-3 Zoning District at 124 Summersea Road, (Map 105 Parcel 53) Mashpee, MA.

Referencing a plot plan prepared by BSS Design Engineering and Surveying, titled; Plot Plan – Proposed House and existing S.S.D.S. at 124 Summersea Road, Mashpee, MA prepared for Paul Trane, scale 1" = 20', dated July 8, 2014, drawn TJB, job number 14117, no revisions. Title Existing and Proposed, drawing number B22-53. Also making the motion, the Board finds that the dwelling is not substantially more detrimental than the existing non-conforming structure. The new dwelling will be an improvement and conform to current building code requirements, is compatible in size and character to other structures in the neighborhood and there is sufficient parking and setbacks as may be required.

Mr. Jodka, seconded, yes, Mr. Furbush, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Mashpee Commons, LP: Request minor modifications under Special Permit SP-86-04-024 to address actual built conditions, relocate certain square footage of building space and location of parking areas, and previously approved residential units as permitted on property located in a C-1 Zoning District, at 38 Nathan Ellis Highway, Building 3, (Map 74 Parcel 20), Mashpee, MA.

Mr. Tom Feronti, representing Mashpee Commons requesting a minor modification to the Special Permit to address some changes proposed to Building 3 which is Asia Restaurant. The plan is to provide an addition on the building adding 250 square feet to the foot print of the building and adding 13 seats inside.

The additional square footage is reallocated from other future buildings, and will be within the total square footage amount permitted under the special permit. The additional square footage does increase the parking demand by one space, which still leaves an excess of 67 spaces when factoring in supply versus demand.

The additional seats increase the waste water component, but with the new waste water treatment facility, there's almost 110,000 gallons of excess capacity in the treatment plant. He stated he went in front of Design Review back in February and the project was divided into two phases. The first phase was done in the spring which encompassed only modifications to the store front. Phase 2 of the project is the added outdoor dining on North Street which is more intensive for the tenant because of the proposed relocations to the bathrooms to outside. The North Street outdoor dining is not being used because the tenant is still amending his liquor license to account for the outdoor dining. At this point, the tenant will wait for approval for the outdoor dining and the additional seating. There's 56 exterior seats. The 13 interior seats are calculated for the waste water. The parking is based on square footage as opposed to the

number of seats, and is within the requirement of the Special Permit. The parking requirement for restaurants is four spaces per thousand square feet. There are two handicapped parking spaces in front of CVS, directly in front of the restaurant, three behind buildings on North Street, and within walking distance with ramps in cross walks.

Mr. Furbush stated he has questions since the meeting back in February. He wanted clarification on the outdoor dining in the back area of the restaurant. Mr. Feronti stated the inside seating changed from 16 to 13. The original plan was to remove a parking space for the outdoor dining, but realized there was an issue to relocate the handicapped space. There is still a parking space and a 5 foot path for travel. He stated the sprinkler system was installed but had issues with passing the chlorination test, so it's not functioning and will turn on the system when the water is sufficient to retest. There are no plans to have outdoor music. There are now egress doors and gates for the outdoor dining to satisfy the request from the Fire Department. There will be a separate building application for Phase 2 that will address the egress and level of alteration. There are air curtains installed at the doors, and at the new door on North Street. Air curtains prevent bugs by pushing down air from entering the space and is required by the Board of Health.

The new curb cut and handicapped ramp and cross walk that will cross the truck court. They relocated the Fire Department connection which was originally in the rear of the building but moved it to Greene Street, so the Fire Department can access the connection and was done during the Phase 1 renovations. There is 18 feet of clear space without impacting the parking spaces along Greene Street. The sprinkler room is in the basement of the restaurant and piped up to an exterior Fire Department connection and located on the southeast corner of the building and satisfied by the Fire Department. There is no parking allowed in the truck court and will notify security of this issue.

Tom stated he adjusted the fence to accommodate the required 5 feet of path and was included with the permit application for the Phase 1 alterations.

Mr. Furbush read an email comment from Deputy Jack Phelan into the record; "*I've attached a copy of the plan with some notations. I have one issue and several concerns with the proposal and the current configuration.*

Issue: *There is not a gate or Fire Department access shown for the new FD Sprinkler connection on Greene St.*

Concerns: *Secondary means of egress to the Exit discharge from outdoor courtyard not shown. Currently the proposed courtyard is the secondary exit discharge for the restaurant. Current outdoor area on North St narrows pedestrian traffic from 10 ft. to 4 ft. from the barrier to the existing light post and handicapped parking sign. (See diagram). If a vehicle is parked in the adjacent space, there is very little room to get by barrier."*

Mr. Feronti stated he will make sure the sprinkler connection is added to the permitted set of plans will make adjustments to move the light post if required.

Mr. Furbush wanted clarification stated by Glen Harrington regarding covering of the outdoor seating and will need to amend their permit.

Tom stated that the restaurant tenant worked with Board of Health and had multiple inspections that satisfied their requirements.

Mr. Mendoza wanted to know the occupancy load. Mr. Feronti stated there are currently 100 seats inside and have not increased the amount. The building did not have a sprinkler system, but will be functioning as soon as passing the chlorination test.

Mr. Reiffarth thought there were additional seats added along the bar area and should be verified. Mr. Feronti will confirm this concern and will revise the plans prior to applying for the permit. The revised liquor license is the tenant's responsibility.

Mr. Furbush stated that he and Bill Blaisdell, and Mike Mendoza met with Town Counsel and reviewed the plans and thought this might be a major modification because of the addition of the back of the building. Town Counsel suggested to review the renovations with an onsite meeting with representatives from the Fire Department, and two Zoning Board members and the Building Commissioner. The Board confirmed a site meeting for Tuesday, September 2, 2014 to visit the site.

A letter was requested by the Board from Mashpee Commons stating they accept the continuance until the next available hearing.

Mr. Blaisdell made a motion to continue Mashpee Commons Building 3 (Asia Restaurant) until September 10, 2014. Mr. Furbush seconded, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. DeBarros, yes. All were in favor.

Cotuit Solar: Request a Variance under §174-31 (Land Space Requirements) of the Zoning By-laws and M.G. L. Chapter 40A §10

for relief from the front, rear and side setback requirements of a residential structure located in a C2 Zone at 36 Savannas Path, (Map 62 Parcel 68B), Mashpee, MA.

Cotuit Solar: Request a Special Permit under §174-24, §174-25 D (1) and §174-41F for redevelopment of a residential structure for office use along with construction of a solar warehouse facility to store supplies, and meet the adequate parking requirements for the business located in a C2 Zone at 36 Savannas Path, (Map 62 Parcel 68B), Mashpee, MA.

Mr. Conrad Geyser representing himself for the subject property. He stated the residential property was rezoned commercial in 2010 and purchased the property in 2012 to convert the house to an office, adding a solar pole barn for storage, and warehouse. The plan is to move his energy business to one location.

Just the existing residential structure will be converted to office use with a high performance building envelope. The work was completed under an existing building permit. All proposed development is occurring within the existing cleared area of the site. To be eligible for the commercial use a road layout was established and recorded. He stated he completed a sub-division modification process with the Mashpee Planning Board and established a 200 foot road frontage extending from Trinity Place.

The existing rear access to the site will be maintained through a gate to prevent routine traffic passage from commercial use into the more sensitive residential zone off Sampson Mill. The advantage will provide secondary emergency access for the Fire Department and will have a Knox Box. All regular commercial traffic will access the main entrance off Route 28. The structure drawing is on page 2 of the plan. There is also a petition for 40 foot frontage setback relief from the Sampson Mill Road. It was determined by Design/Plan Review there is no need for side setback relief. The rear setback relief for the proposed structure is 28 feet and was determined to be a 22 foot relief. The existing house is closer at 24.5 feet from the road.

The parking requirements expressed for the sub-division code is (12) twelve spaces shown on the plan. The plan depicts four spaces in front of the existing structure, and an additional eight in the proposed gravel parking area. The office occupancy is approximately five (5) people who currently operate in a small office located in Marstons Mills. A partial waiver from Section 174-41 is requested for the remote parking spaces to use gravel instead of asphalt.

Concerns from neighboring residents have been addressed regarding lighting and the vegetated border downward lemons on the building. The lamp posts are intended to be used intermittently to access parking and will not be on all night. The current vegetated buffer seems to provide 100% visual buffer in the summer, and 90% in the winter when there is no foliage. The landscape plan does provide for a vegetated buffer for the nearest residence that is approximately 330 feet.

Mr. Geyser stated he would like to have his 26 year business and 12 employees closer to his home. He currently has a warehouse and office in different locations and would like to have one location. The 8.7% lot coverage and the road from Route 28 is the greatest impact but this has been deemed necessary for commercial access to the property and will not be entering through Sampsons Mill Road. He stated the last year has been spent working on the road and drainage engineering, and getting it recorded. He stated that the use of this property will not negatively impact the area. He said he would need to post a sign to inform the public of the location.

Joe Hackler stated the landscape and lighting plan has been updated for the Planning Board.

Mr. Geyser stated he understands that the location of the proposed gate on the plan is a concern and will update the plan if necessary.

Mr. Furbush stated the actual updated plan is page 2 as noted by Design/Plan Review. He wanted to know if there is any retail business. Mr. Geyser said; "no". Most customers only visit to do paper work or for consulting purposes. He stated that customer visits are for energy retrofits, integration, and solar thermal work which requires onsite visits at the customer locations.

Mr. Furbush wanted to know the how often an office visit is currently in Cotuit and how many vehicles. Mr. Geyser said approximately about 2-3 customers per week, and an occasional sales person. There will be no manufacturing. The pole barn will be used for storage. He stated there will be approximately two to three truck deliveries every other week. A busy time would be two to three a week.

Mr. Furbush asked if these panels can be stacked on top of each other. Mr. Geyser said; "yes". Mr. Furbush asked why the proposed building has to be 50 feet deep rather than 35 or 40. Mr. Geyser said the current building is roughly 35 feet by 50 feet, (1,750 square feet) and is very congested. Mr. Furbush stated the proposed building is 85 feet by 50 (approximately 4,250 square feet), and is twice the size of the current building. Mr. Furbush asked if he can make the building 40 feet longer, and thinner, moving it closer to spot 6 of the parking spaces, and cut it down from 50 to 40, so not encroaching on the wetlands. Mr. Geyser stated that would be a possibility.

Mr. Furbush asked the business hours. Mr. Geyser stated the current hours are 7:00 a.m. to 5:00 p.m. and will be the same at the new office. The delivery trucks would return to the office around 3:00 p.m. The office employees work 8:00 am to 5:00 pm and there are approximately four employees. No weekend hours. There are two part-time employees. Mr. Furbush thought the parking spaces could be further away from the wetlands and work through a compromise with the neighbors.

Mr. Goldstein asked if there would be a forklift and operator onsite. Mr. Geyser said; "yes" and would be an order of condition for 7:00 a.m. to 5:00 p.m. On occasion 18 wheeler truck that makes deliveries, and the turn-around area was satisfied by the Fire Department.

Mr. Mendoza stated there is a permit for a slab, but no mention of an enclosure. He is concerned and did not see the permit onsite as required. He stated that the building code is specific as what is written on the application. Mr. Mendoza asked Mr. Geyser if he plans to put up a sign on Route 28. He quoted the bylaw; "Signs and bill boards advertising products no sold, or services not available on the property are prohibited." Mr. Geyser thought it was a requirement. Mr. Mendoza stated he will work with Mr. Geyser when he is ready.

Mr. Furbush read Board of Health comments into the record; "Change from bedrooms to office space is a reduction in flow. Septic inspected and passed. Addition of warehouse/employees still OK with septic."

Mr. Furbush stated he met with Town Counsel and discussed making a site visit with two Board members, and Michael Mendoza, Building Commissioner. Jonathan mentioned that Mike did review the site and has several concerns. Trying to access the property through the back entrance was difficult; there's no bearing points. The proposal and plan only show one structure and does not match what is on the site, stating there are two structures.

Mr. Goldstein asked about the concrete slab next to the septic system on the plan marked to be removed. Mr. Geyser said the existing bulk head entry way was removed and enclosed as part of work being done on the house. It is a separate structure the size of a shed that was pulled off the house. He stated that no work has been done.

Mr. Furbush asked Mr. Geyser who the contractor will be for the project. Mr. Geyser said he has his own workers. Mr. Mendoza said; "this is not allowed". Mr. Mendoza said he is working with Mr. Geyser and contacted the State regarding an individual, his license was approved on August 20, 2014. A copy of the letter was mailed and he has not received it and the State will mail him another one. A permit needs to be pulled by a licensed contractor.

Nicole Bartlett an abutter approached the Board and stated she and her husband John reside at 28 Sampsons Mill Road. They have owned their property since 1999 and are concerned with Cotuit Solar's request for a Variance and Special Permit. They have strong concerns, regarding the proposed plan, landscape, traffic volume, and unknown growth and expansion of the business. This is the sixth hearing since last summer regarding this project and she is unsatisfied with Cotuit Solar being unfamiliar with the process. They are not trying to prevent Cotuit Solar from having their business, but trying to raise awareness of the obvious impact to the wetlands surrounding her property. She stated that Cotuit Solar have moved fill, and distributed existing drainage patterns causing issues to her property until they were told to stop. They used heavy equipment to cut down trees, at 6 am and Sundays at 1:00 pm. She stated she has an audio recording. Any permit granted by the Board should restrict hours of operation to normal business hours; 8:00 am to 5:00 pm. She stated the plans submitted by Cotuit Solar are incomplete, not well thought out, and hoping the Board will deny their requests.

Mr. Furbush wants the site staked out prior to the visit showing where the barn will be located. The surveyor, A&M Land needs to stake the actual property boundaries.

Mr. Geyser stated he will have the corrected plan for the gate and marking the boundary for the next hearing on September 8, 2014. He agreed to a site visit on Friday, September 5, 2014.

Bill Blaisdell made a motion to continue Cotuit Solar's hearing for their Variance and Special Permit requests until the next scheduled hearings dated September 8, 2014.

Mr. Furbush, seconded, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, and Mr. Goldstein, yes. All were in favor.

Mashpee Commons LP: Requests approval on a previously discussed minor modification that will add 16 parking places to the 40B project currently under review. The spaces will be configured on the south side of Jobs Fishing Road along the east and west ends of the proposed green.

Mr. John Connell represented Mashpee Commons' minor modification of their 40B project. He presented Horsley Witten's overall site

plan that depicts the parking, sub-surface drainage, and Phase 1 of the green. He stated without effecting the travel way, they cut into the green to accommodate the 16 parking spaces. They also moved the drainage swale. He met with Charles Rowley who was concerned with Jobs Fishing Road being the by-pass to the rotary, but John stated that by posting a speed limit sign of 25 miles per hour, and with parking on each side of the street will condition people to travel slower.

Mr. Furbush asked if Charlie had a problem with the parking spaces on the North side of Jobs Fishing Road. John stated that Charlie only had a problem with the 16 new spaces.

Tom Feronti stated by posting a 25 mile per hour sign, the conception of Jobs Fishing Road's by-pass to and from Route 151 and 28 will provide for safer intersections. Tightening up the road with parking spaces and buildings, will help control traffic flow. Mr. Connell stated that Charlie Rowley is satisfied with the engineering design.

Mr. Furbush asked if a speed bump could be installed until the build-out. Mr. Connell stated that people tend to speed up at an incline as opposed to going down a hill.

Mr. Blasdell made a motion Mashpee Commons' request for approval of a previously discussed minor modification to add 16 parking spaces to the 40B project currently under review. The spaces will be configured on the South Side of Jobs Fishing Road along the East and West ends of the proposed green. Referencing a plan titled Mashpee Commons 40B – Phase 1 Development Construction Plans, Mashpee, MA, Overall Site Plan, submitted by Horsley Witten Group, Inc. and BSS Design, dated November 2013, revised 12/10/13, 1/7/14, 2/17/14 and 8/12/14. Sheet C7 through C12.

Mr. Jodka seconded, yes, Mr. Furbush, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes. All were in favor.

Mr. Connell submitted a request from the original comprehensive permit regarding the number of foundations as (four foundations = 5400 square feet to two foundations/footprint = 5,980 square feet).

Approve July 23, 2014 Meeting Minutes

Mr. Blaisdell made a motion to approve July 23, 2014 meeting minutes. Mr. Furbush seconded, yes, Mr. Reiffarth, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes.

Mr. Furbush mentioned to the Board he would like to have a discussion regarding accessory apartments when issuing a special permit. He stated that a vote is required to add this discussion to a future agenda. Mr. Mendoza described to the Board when voting on an accessory apartment to make sure the applicant is aware of the new process, the proper paper work is submitted to the building department, and acknowledge the changes adding a condition in the decision.

Mr. Furbush made a motion to add this discussion to a future agenda. Bill Blaisdell, seconded, yes, Mr. Reiffarth, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. Mr. Jodka abstained.

Mr. Reiffarth made a motion to adjourn, yes, Mr. Blaisdell, seconded, yes, Mr. Furbush, yes, Mr. Jodka, yes, Mr. Goldstein, yes, and Mr. DeBarros, yes. All were in favor.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals